

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1011

By: Olsen

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; defining
8 terms; prohibiting certain health care professionals
9 from performing or attempting to perform gender
10 transition procedures to certain individuals;
11 prohibiting certain health care professionals from
12 making certain referrals; providing exceptions;
13 prohibiting use of public funds for gender transition
14 procedures; prohibiting gender transition procedures
15 under certain circumstances; prohibiting state
16 Medicaid program reimbursements; providing for felony
17 penalties; authorizing fine or confinement or both;
18 prescribing statute of limitations; defining certain
19 conduct as unprofessional; requiring revocation of
20 license or certificate; prescribing statute of
21 limitations for disciplinary proceedings; authorizing
22 certain claims or defenses; prescribing statute of
23 limitations; authorizing civil actions by minors;
24 authorizing civil actions after majority; authorizing
certain actions without exhaustion of administrative
remedies; authorizing attorney fees; authorizing
Attorney General to bring enforcement actions;
providing for construction of act; providing for
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2607.1 of Title 63, unless there
is created a duplication in numbering, reads as follows:

1 As used in this act:

2 1. "Biological sex" means the biological indication of male and
3 female in the context of reproductive potential or capacity, such as
4 sex chromosomes, naturally occurring sex hormones, gonads, and
5 nonambiguous internal and external genitalia present at birth,
6 without regard to an individual's psychological, chosen, or
7 subjective experience of gender;

8 2. "Cross-sex hormones" means:

9 a. testosterone or other androgens given to biological
10 females in amounts that are larger or more potent than
11 would normally occur naturally in healthy biological
12 sex females, and

13 b. estrogen given to biological males in amounts that are
14 larger or more potent than would normally occur
15 naturally in healthy biological sex males;

16 3. "Gender" means the psychological, behavioral, social, and
17 cultural aspects of being male or female;

18 4. "Gender reassignment surgery" means any medical or surgical
19 service that seeks to surgically alter or remove healthy physical or
20 anatomical characteristics or features that are typical for the
21 individual's biological sex, in order to instill or create
22 physiological or anatomical characteristics that resemble a sex
23 different from the individual's biological sex, including but not
24 limited to genital or nongenital gender reassignment surgery

1 performed for the purpose of assisting an individual with a gender
2 transition;

3 5. "Gender transition" means the process in which a person goes
4 from identifying with and living as a gender that corresponds to his
5 or her biological sex to identifying with and living as a gender
6 different from his or her biological sex, and may involve social,
7 legal, or physical changes;

8 6. a. "Gender transition procedures" means any medical or
9 surgical service, including but not limited to
10 physician's services, inpatient and outpatient
11 hospital services, or prescribed drugs related to
12 gender transition, that seeks to:

13 (1) alter or remove physical or anatomical
14 characteristics or features that are typical for
15 the individual's biological sex, or

16 (2) instill or create physiological or anatomical
17 characteristics that resemble a sex different
18 from the individual's biological sex, including
19 but not limited to medical services that provide
20 puberty-blocking drugs, cross-sex hormones, or
21 other mechanisms to promote the development of
22 feminizing or masculinizing features in the
23 opposite biological sex, or genital or nongenital
24 gender reassignment surgery performed for the

1 purpose of assisting an individual with a gender
2 transition.

3 b. Gender transition procedures do not include:

4 (1) services to persons born with a medically
5 verifiable disorder of sex development, including
6 a person with external biological sex
7 characteristics that are irresolvably ambiguous,
8 such as those born with 46 XX chromosomes with
9 virilization, 46 XY chromosomes with
10 undervirilization, or having both ovarian and
11 testicular tissue,

12 (2) services provided when a physician has otherwise
13 diagnosed a disorder of sexual development that
14 the physician has determined through genetic or
15 biochemical testing that the person does not have
16 normal sex chromosome structure, sex steroid
17 hormone production, or sex steroid hormone
18 action,

19 (3) the treatment of any infection, injury, disease,
20 or disorder that has been caused by or
21 exacerbated by the performance of gender
22 transition procedures, whether or not the gender
23 transition procedure was performed in accordance
24 with state and federal law, or

1 (4) any procedure undertaken because the individual
2 suffers from a physical disorder, physical
3 injury, or physical illness that would, as
4 certified by a physician, place the individual in
5 imminent danger of death or impairment of major
6 bodily function unless surgery is performed;

7 7. "Genital gender reassignment surgery" means a medical
8 procedure performed for the purpose of assisting an individual with
9 a gender transition, including but not limited to:

- 10 a. surgical procedures such as penectomy, orchiectomy,
11 vaginoplasty, clitoroplasty, or vulvoplasty for
12 biologically male patients or hysterectomy or
13 ovariectomy for biologically female patients,
14 b. reconstruction of the fixed part of the urethra with
15 or without a metoidioplasty, or
16 c. phalloplasty, vaginectomy, scrotoplasty, or
17 implantation of erection or testicular prostheses for
18 biologically female patients;

19 8. "Health care professional" means a person who is licensed,
20 certified, or otherwise authorized by the laws of this state to
21 administer health care in the ordinary course of the practice of his
22 or her profession;

1 9. "Nongenital gender reassignment surgery" means medical
2 procedures performed for the purpose of assisting an individual with
3 a gender transition, including but not limited to:

4 a. surgical procedures for biologically male patients,
5 such as augmentation mammoplasty, facial feminization
6 surgery, liposuction, lipofilling, voice surgery,
7 thyroid cartilage reduction, gluteal augmentation,
8 hair reconstruction, or various aesthetic procedures,
9 or

10 b. surgical procedures for biologically female patients,
11 such as subcutaneous mastectomy, voice surgery,
12 liposuction, lipofilling, pectoral implants, or
13 various aesthetic procedures;

14 10. "Physician" means a person who is licensed to practice
15 medicine in this state;

16 11. "Puberty-blocking drugs" means gonadotropin-releasing
17 hormone analogues or other synthetic drugs used in biological males
18 to stop luteinizing hormone secretion and therefore testosterone
19 secretion, or synthetic drugs used in biological females which stop
20 the production of estrogens and progesterone, when used to delay or
21 suppress pubertal development in children for the purpose of
22 assisting an individual with a gender transition; and

23 12. "Public funds" means state, county, or local government
24 monies, in addition to any department, agency, or instrumentality

1 authorized or appropriated under state law or derived from any fund
2 in which such monies are deposited.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2607.2 of Title 63, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A physician or other health care professional shall not
7 perform or attempt to perform gender transition procedures to any
8 individual under twenty-one (21) years of age.

9 B. A physician or other health care professional shall not
10 refer any individual under twenty-one (21) years of age to any
11 health care professional for gender transition procedures.

12 C. A physician or other health care professional is not
13 prohibited from providing any of the following procedures which are
14 not gender transition procedures to an individual under twenty-one
15 (21) years of age:

16 1. Services to persons born with a medically verifiable
17 disorder of sex development, including a person with external
18 biological sex characteristics that are irresolvably ambiguous, such
19 as those born with 46 XX chromosomes with virilization, 46 XY
20 chromosomes with undervirilization, or having both ovarian and
21 testicular tissue;

22 2. Services provided when a physician has otherwise diagnosed a
23 disorder of sexual development that the physician has determined
24 through genetic or biochemical testing that the person does not have

1 normal sex chromosome structure, sex steroid hormone production, or
2 sex steroid hormone action;

3 3. The treatment of any infection, injury, disease, or disorder
4 that has been caused by or exacerbated by the performance of gender
5 transition procedures, whether or not the gender transition
6 procedure was performed in accordance with state and federal law or
7 whether funding for the gender transition procedure is permissible
8 under Section 3 of this act; or

9 4. Any procedure undertaken because the individual suffers from
10 a physical disorder, physical injury, or physical illness that
11 would, as certified by a physician, place the individual in imminent
12 danger of death or impairment of major bodily function unless
13 surgery is performed.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2607.3 of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Public funds shall not be directly or indirectly used,
18 granted, paid, or distributed to any entity, organization, or
19 individual that provides gender transition procedures to an
20 individual under twenty-one (21) years of age. Any violation shall
21 result in the loss of such funding.

22 B. Health care services furnished in the following situations
23 shall not include gender transition procedures to an individual
24 under twenty-one (21) years of age:

1 1. By or in a health care facility owned by the state or a
2 county or local government; or

3 2. By a physician or other health care professional employed by
4 the state or a county or local government.

5 C. The state Medicaid program shall not reimburse or provide
6 coverage for gender transition procedures to an individual under
7 twenty-one (21) years of age.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2607.4 of Title 63, unless there
10 is created a duplication in numbering, reads as follows:

11 A. 1. As provided in subsection A of Section 2 of this act, a
12 physician or other health care professional performing or attempting
13 to perform gender transition procedures to any individual under
14 twenty-one (21) years of age shall, upon conviction, be guilty of a
15 felony punishable by fine not to exceed One Hundred Thousand Dollars
16 (\$100,000.00), or by confinement in the custody of the Department of
17 Corrections for a term not to exceed ten (10) years, or by both such
18 fine and imprisonment.

19 2. Prosecution for a criminal violation of this subsection
20 shall be commenced not later than the date as of which the
21 individual receiving gender transition procedures attains the age of
22 forty-five (45) years.

23 B. 1. As provided in subsection B of Section 2 of this act, a
24 physician or other health care professional found to have knowingly

1 referred any individual under twenty-one (21) years of age to any
2 health care professional for gender transition procedures shall,
3 upon conviction, be guilty of a felony.

4 2. Prosecution for a criminal violation of this subsection
5 shall be commenced not later than the date as of which the
6 individual receiving gender transition procedures attains the age of
7 forty-five (45) years.

8 C. 1. Any referral for or provision of gender transition
9 procedures to an individual under twenty-one (21) years of age is
10 unprofessional conduct and shall, upon an adverse ruling by the
11 appropriate licensing board, result in immediate revocation of the
12 license or certificate of the physician or other health care
13 professional.

14 2. Disciplinary proceedings against the physician or other
15 health care professional must be commenced not later than the date
16 as of which the individual receiving gender transition procedures
17 attains the age of forty-five (45) years.

18 D. 1. A person may assert an actual or threatened violation of
19 this act as an independent civil action or defense in a judicial or
20 administrative proceeding and obtain compensatory damages,
21 injunctive relief, declaratory relief, or any other appropriate
22 relief.

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1 2. A person shall bring a claim for a violation of this act no
2 later than the date as of which the individual receiving gender
3 transition procedures attains the age of forty-five (45) years.

4 3. An individual under eighteen (18) years of age may bring an
5 action throughout their minority through a parent or next friend,
6 and may bring an action in their own name upon reaching majority at
7 any time from that point until twenty-seven (27) years after
8 reaching the age of majority.

9 4. Notwithstanding any other provision of law, an action under
10 this subsection may be commenced, and relief may be granted, in a
11 judicial proceeding without regard to whether the person commencing
12 the action has sought or exhausted available administrative
13 remedies.

14 5. In any action or proceeding to enforce a provision of this
15 act, a prevailing party who establishes a violation of this act
16 shall recover reasonable attorney fees.

17 E. 1. The Attorney General may bring an action to enforce
18 compliance with this act.

19 2. This act does not deny, impair, or otherwise affect any
20 right or authority of the Attorney General, the State of
21 Oklahoma, or any agency, officer, or employee of the state,
22 acting under any law other than this act, to institute or
23 intervene in any proceeding.

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SECTION 5. This act shall become effective November 1, 2023.

59-1-5096 TJ 11/30/22